

EXTRA INFO. 5/8/06 - CONSENT

Acton Community Housing Corporation

Nancy Tavernier, Chairman

TOWN OF ACTON

Acton Town Hall

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TO: Board of Selectmen
FROM: Nancy Tavernier, Chair
Acton Community Housing Corporation
SUBJECT: Approval of memorandum of agreement for donation to Willow/Central
DATE: May 8, 2006

The ACHC is seeking approval from the Board for the attached Memorandum of Agreement between The Steinberg-Lalli Foundation (Stephen P. Steinberg, Trustee) and the ACHC. Steve Anderson has helped the ACHC negotiate this agreement and prepare the final document for signature. The agreement contains this section as explanation for this request by the ACHC.

Approval of the Acton Board of Selectmen

Pursuant to Sections 2(d) and 2(g) of Chapter 143 of the Acts of 1996, the Acton Board of Selectmen, at a meeting duly called for the purpose on _____, 2006, voted to approve and does hereby approve the prospective receipt and expenditure by the Acton Community Housing Corporation of the funds described herein for the purposes stated.

The Foundation intends to make an extremely generous donation to the ACHC for the development of the Willow/Central project, conditioned on the successful completion of the project by a qualified developer.

ACHC was approached by Steve Steinberg, Trustee of The Foundation, seeking an opportunity for his Foundation to contribute to the goal of providing more affordable housing in the community. ACHC will be doing appropriate publicity of this donation once the project nears completion.

Thank you for your support.

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement is made this 5th day of May, 2006, by **The Steinberg-Lalli Foundation**, P.O. Box 2350, Acton, MA 01720 ("Grantor") and the **Acton Community Housing Corporation**, a Massachusetts nonprofit housing corporation established pursuant to Chapter 143 of the Acts of 1996, with a principal place of business at Acton Town Hall, 472 Main Street, Acton, Massachusetts 01720, Tax ID number: EIN20-0341286 ("Grantee" or "ACHC").

WHEREAS, the Town of Acton acquired by a tax taking the real property at 28 Willow Street and 214 Central Street, Acton, Massachusetts (the "Property").

WHEREAS, the Acton Community Housing Corporation ("ACHC") proposes that the Property be developed as an affordable housing project consisting of three units of affordable housing (a duplex farmhouse on the Central Street side of the Property and a one-unit bungalow on the Willow Street side of the Property) (the "Project").

WHEREAS, under ACHC's Home Rule legislation, ACHC has the power "with the approval of the board of selectmen, to acquire ..., and to own, ... and to ... sell, transfer, convey, ... or to otherwise dispose of, on such terms and conditions as it may deem proper, real ... property ... as may be necessary or appropriate to carry out its purposes." (St. 1996, c. 143, § 2(d)).

WHEREAS, under ACHC's Home Rule legislation, ACHC also has the power "with the approval of the board of selectmen, to receive and hold ... funds, property, labor and other things of value from any source, public or private, by gift, grant, bequest, loan or otherwise, either absolutely or in trust, and to expend or utilize the same on behalf of the corporation for any of its purposes" (St. 1996, c. 143, § 2(g)).

WHEREAS, pursuant to Article 29 of the 2006 Acton Annual Town Meeting, the Town voted (a) to transfer the Property from the tax title custodian to the Board of Selectmen for the purpose of conveyance, and (b) to authorize the Board of Selectmen to convey the Property to ACHC for purposes of re-conveyance by ACHC, with the approval of the Board of Selectmen, to a qualified developer of affordable housing, selected pursuant to a Request for Proposals ("RFP"), which RFP shall specify restrictions on the subsequent use of the property for residential and affordable housing purposes.

WHEREAS, ACHC is in the process of acquiring the Property, developing plans, applying for a comprehensive permit, and preparing the RFP for the Project.

WHEREAS, to help ensure that the foregoing project succeeds, the Grantor intends, but only pursuant to the conditions and qualifications set forth herein, to make a grant in the total amount of \$200,000 to ACHC, which shall be expended by ACHC solely in furtherance of the Project.

NOW THEREFORE, for one dollar (\$1.00) and other adequate non-monetary consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

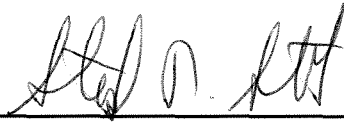
1. Upon the issuance of occupancy permits by the Acton Building Commissioner for all three residential units in the Project, the Grantor shall deliver to the ACHC a check in the amount of \$200,000. Provided, however, if said occupancy permits are not issued on or before June 30, 2008, or such further time as the parties hereto may agree in writing, then Grantor shall have no obligation to make any grant, this Memorandum of Agreement shall be automatically void, and the parties shall have no further recourse either at law or in equity. In no event, shall Grantor be obligated to make payment of any sum on or before January 1, 2007.
2. ACHC shall accept and deposit said funds, and shall use said funds and all interest thereon solely in furtherance of the Project.
3. Within three months after initial occupancy of the Project, ACHC shall provide to the Grantor an accounting of how said funds have been expended.
4. In the event that, upon furnishing said accounting, ACHC has any funds remaining from this grant or the interest thereon, those remaining funds shall be returned to Grantor.
5. The payment of the grant is conditioned on the Grantee's installation (at Grantee's sole cost at the Property prior to initial occupancy of the Project) of a granite stone with a bronze plaque stating that the Project is "Dedicated to the memory and generosity of Joseph A, Lalli. The Steineberg-Lalli Charitable Foundation." Actual erection or placement of the proposed plaque or monument is subject to the approval of the Board of Appeals in the comprehensive permit process.
6. In order to further the philanthropic goals of the Grantor, Grantee agrees to publicize prominently in all media communications published by Grantee regarding the Project the role of the Grantor in financially assisting the Project and the goals of the Grantor.
7. Within 10 days after Grantee has issued its Notice of Award of the contract for the disposition of the Property to a developer/builder pursuant to Grantee's Request for Proposals therefor, the Grantee shall notify the Grantor of the name, address, and qualifications of the selected RFP Respondent. Within 10 days after Grantor's receipt of the notification from the Grantee, Grantor shall (by hand delivery, certified mail, express mail, or federal express to the Grantee's address above written) notify Grantee in writing as to whether the Grantor shall, in its sole discretion, terminate this Memorandum of Agreement on the ground that the selected RFP Respondent for the Project is unacceptable to Grantor. If such notice of

termination is timely sent by Grantor, then Grantor shall have no obligation to make this grant, this Memorandum of Agreement shall be automatically void, and the parties shall have no further recourse either at law or in equity pursuant hereto.

8. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

WITNESS the execution hereof under seal the 8th day of May, 2006.

GRANTOR:

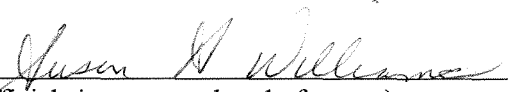

Stephen P. Steinberg, Trustee

COMMONWEALTH OF MASSACHUSETTS)


)ss:

COUNTY OF MIDDLESEX)

On the 8th day of May, 2006, before me, the undersigned Notary Public, personally appeared, Stephen P. Steinberg, Trustee, proved to me through satisfactory evidence of identification, which were MA license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily and for its stated purpose, and as such was authorized to execute this instrument.


(Official signature and seal of notary)
Notary Public: Susan Ann Williams
My Commission Expires: Notary Public
My Commission Expires June 5, 2009

GRANTEE:


Acton Community Housing Corporation
By: Nancy Tavernier
Its: Duly Authorized Chair

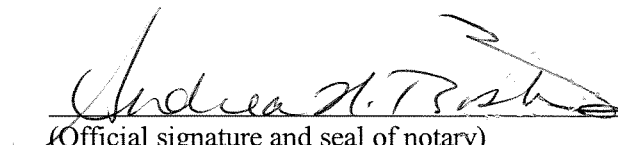
COMMONWEALTH OF MASSACHUSETTS)

)ss:

COUNTY OF MIDDLESEX)

On the 8th day of May, 2006, before me, the undersigned Notary Public, personally appeared, Nancy Tavernier, proved to me through satisfactory evidence of

identification, which were known to me to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose as the authorized official of the Acton Community Housing Corporation and, as such, was authorized to execute this instrument.


(Official signature and seal of notary)
Notary Public: _____
My Commission Expires: _____



ANDREA H. RISTINE
Notary Public
Commonwealth of Massachusetts
My Commission expires
February 27, 2009

Approval of the Acton Board of Selectmen

Pursuant to Sections 2(d) and 2(g) of Chapter 143 of the Acts of 1996, the Acton Board of Selectmen, at a meeting duly called for the purpose on _____, 2006, voted to approve and does hereby approve the prospective receipt and expenditure by the Acton Community Housing Corporation of the funds described herein for the purposes stated.

Acton Board of Selectmen,

Walter M. Foster, Chairman

Andrew D. Magee

Lauren S. Rosenzweig

Peter K. Ashton

F. Dore' Hunter

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF MIDDLESEX

On this ____ day of _____, 2006, before me, the undersigned Notary Public, personally appeared each of the foregoing named members of the Board of Selectmen of the Town of Acton, proved to me through satisfactory evidence of identification, which was: examination of _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as the foregoing named members of the Board of Selectmen of the Town of Acton, a municipal corporation.

(Official signature and seal of notary)

Notary Public: _____

My Commission Expires: _____